

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

**IN RE GOOGLE PLAY STORE  
ANTITRUST LITIGATION**

No. 3:21-md-02981-JD

THIS DOCUMENT RELATES TO:

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
SANCTIONS**

*Epic Games Inc. v. Google LLC et al.*,  
Case No. 3:20-cv-05671-JD

Judge: Hon. James Donato

*In re Google Play Consumer Antitrust  
Litigation*, Case No. 3:20-cv-05761-JD

*State of Utah et al. v. Google LLC et al.*,  
Case No. 3:21-cv-05227-JD

1 Before the Court is the Motion for Sanctions filed by the Plaintiffs. The Court, having  
2 reviewed the Motion and accompanying memoranda, declarations and exhibits in support, any  
3 opposition thereto, the reply, the arguments of counsel, and good cause appearing, hereby  
4 **ORDERS** that the Motion is **GRANTED**. The Court finds that the sanction of an adverse inference  
5 jury instruction under Federal Rule of Civil Procedure Rule 37(e)(2) is appropriate to remedy  
6 Google's continuing intentional destruction of Google Chats. The Court will therefore instruct the  
7 jury that (1) Google had a discovery obligation to maintain Google Chats no later than August 13,  
8 2020; (2) Google had a mechanism to do so; (3) Google failed to implement that mechanism; (4)  
9 Google automatically deleted relevant Google Chats for each custodian in this case; (5) this  
10 destruction prevented Plaintiffs and the jury from learning the contents of those Google Chats; and  
11 (6) the jury should assume that the information Google had destroyed would have supported  
12 Plaintiffs' claims against Google.

13 **IT IS SO ORDERED.**

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15 DATED: \_\_\_\_\_

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16 HONORABLE JAMES DONATO  
17 UNITED STATES DISTRICT JUDGE  
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